

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, et al.,
Plaintiffs,
v.
GOOGLE LLC,
Defendant.

Case No. [20-cv-04688-RS](#) (AGT)

ORDER RE: DISCOVERY DISPUTE

Re: Dkt. No. 110

Plaintiffs have moved to compel Google to provide one or more 30(b)(6) witnesses to testify on six topics. The undersigned has considered the parties' respective positions and rules as follows:

1. Topics 1–3 are premature. Google hasn't finished producing topic-related documents, so a 30(b)(6) deposition at this time would be inefficient. Plaintiffs may re-notice these topics after Google substantially completes production of the topic-related documents.

2. Topic 2 appears to relate to plaintiffs' "secret scripts" theory. Judge Seeborg recently held that that theory was "woefully underdeveloped" in the then-operative complaint. Dkt. 109 at 12. Google, on that basis, argues that Topic 2 is moot. Judge Seeborg gave plaintiffs leave to amend their complaint, and plaintiffs suggest that they will be taking that opportunity to refine their theory. *See* Dkt. 110 at 4. At least until the pleadings are settled, the undersigned can't definitively conclude that Topic 2 is moot.

3. Topic 4 seeks testimony about Google's document-preservation efforts in this litigation. Plaintiffs haven't identified a "specific deficiency" in Google's preservation efforts, so their request for a witness on this topic, which would be "discovery on discovery," is denied. *Uschold v. Carriage Servs., Inc.*, 2019 WL 8298261, at *4 (N.D. Cal. Jan. 22, 2019) (Laporte, M.J.) (citing *Brewer v. BNSF Ry. Co.*, 2018 WL 882812, at *2 (D. Mont. Feb. 14, 2018)).

4. Topics 5 and 6 only ask Google to identify which of its employees are most knowledgeable

1 on certain subjects, and where certain documents are located. These topics should first be addressed
2 through interrogatories. If plaintiffs can later show that testimony is needed to supplement written
3 discovery on these topics, they may renew their request to compel a witness to testify.

4 5. By June 11, 2021, the parties must meet and confer on a schedule for completing the
5 written discovery that needs to precede the 30(b)(6) depositions.

6 **IT IS SO ORDERED.**

7 Dated: June 4, 2021



ALEX G. TSE
United States Magistrate Judge